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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,602	10/03/2000	Jun Ueki	0760-0281P	7119

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EXAMINER

LOEB, BRONWEN

ART UNIT PAPER NUMBER

1636

DATE MAILED: 10/01/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicant(s)

09/600,602

Applicant(s)

UEKI, JUN

Examiner

Bronwen M. Loeb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-6,9-13,16-18,21, 23-28 and 30-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,13,21,26-28 and 33-41 is/are rejected.
- 7) ☒ Claim(s) 4,5,9-12,16-18,23-26 and 30-32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the amendment filed 1 July 2002 in which claims 1, 4-6, 9, 10, 13, 16, 17, 21 and 23-27 were amended, claims 2, 7, 14, 22 and 29 were cancelled and new claims 33-41 are presented.

Claims 1, 4-6, 9-13, 16-18, 21, 23-28 and 30-41 are pending.

Claim Objections

1. Claims 4, 9 and 16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The isolated nucleic acid of claim 1 and in the method of claim 13 already comprises the sequence of SEQ ID No. 1. Amending each of these claims to recite "The nucleic acid according to claim 1 consisting of SEQ ID NO: 1" or comparable language would overcome this objection.

Claims dependent on any of these three claims are also objected to as being dependent on an objected claim.

Response to Amendment

2. The rejection of claims 1, 2, 4, 6, 7, 13, 14, 26, 28 and 29 under 35 U.S.C. §102(e) as being anticipated by Morioka et al has been withdrawn in view of Applicant's amendment.

The rejection of claims 1, 2, 4-7, 13, 14, 21, 22, 26, 28 and 29 under 35 U.S.C. §103(a) as being unpatentable over Morioka et al in view of Ueki et al (Plant Cell Physiol. (1999) 40(6): 618-623) has been withdrawn in view of Applicant's amendment.

The rejection of claims 1, 2, 4-7, 13, 14, 21, 22, 26, 28 and 29 under 35 U.S.C. §103(a) as being unpatentable over Morioka et al, in view of Ueki et al (EP 0846770 A1; "Ueki et al EP") has been withdrawn in view of Applicant's amendment.

The rejection of claims 24 and 25 under 35 U.S.C. §112, second paragraph, as being indefinite has been withdrawn in view of Applicant's amendment.

The rejection of claims 1, 2, 4-7, 9-14, 16-18 and 21-32 under 35 U.S.C. §112, first paragraph, as lacking sufficient written description has been withdrawn in view of Applicant's amendment.

Conclusion

Claims 1, 6, 13, 21, 26, 27, 28 and 33-41 are allowed. Claims 4, 5, 9-12, 16-18, 23-26 and 30-32 are objected to.

Certain papers related to this application may be submitted to Art Unit 1636 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). The official fax telephone numbers for the Group are (703) 308-4242 and (703) 305-3014. NOTE: If Applicant does submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bronwen M. Loeb whose telephone number is (703) 605-1197. The examiner can normally be reached on Monday through Friday, from 10:00 AM to 6:30 PM. A phone message left at this number will be responded to as

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soon as possible (usually no later than the next business day after receipt by the examiner).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Remy Yucel, can be reached on (703) 305-1998.

Any inquiry of a general nature or relating to the status of this application should be directed to Tracey Johnson, Patent Analyst whose telephone number is (703) 305-2982.

Customer service for Tech Center 1600 may be reached at (703)-308-0198.

Bronwen M. Loeb, Ph.D.
Patent Examiner
Art Unit 1636

September 30, 2002



REMY YUCEL, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600